

SENATE BILL 858

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CF 01r2227

By: **Senators Conway, Astle, Brinkley, Brochin, Colburn, Currie, DeGrange, Della, Dyson, Edwards, Exum, Forehand, Frosh, Garagiola, Gladden, Glassman, Haines, Harrington, Harris, Jacobs, Jones, Kasemeyer, Kelley, King, Kittleman, Klausmeier, Kramer, Lenett, McFadden, Middleton, Miller, Munson, Peters, Pinsky, Pipkin, Pugh, Raskin, Reilly, Robey, Rosapepe, Simonaire, Stone, and Zirkin**

Introduced and read first time: February 12, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Winery Modernization Act**

3 FOR the purpose of authorizing the Comptroller to issue a farmer's market permit to
4 certain alcoholic beverages licensees; specifying that a permit may be used only
5 at a certain time and place and for certain purposes; limiting the number of
6 permits that the Comptroller may issue; altering the scope of the Class 4 limited
7 winery license; authorizing a licensee to exercise certain privileges under
8 certain conditions, including fermenting and bottling wine, distilling and
9 bottling pomace brandy, providing samples of wine and pomace brandy, and
10 selling or serving certain foods; specifying certain license restrictions in Garrett
11 County; requiring a licensee to file a certain notice with the Comptroller under
12 certain conditions; altering the amount of pomace brandy a licensee is
13 authorized to distill and bottle; authorizing a licensee to purchase a certain
14 amount of bulk wine for a certain purpose; authorizing a licensee to conduct
15 winemaking and packaging activities at certain locations under certain
16 circumstances; requiring that throughout the winemaking process, the licensee
17 maintain ownership of the wine or pomace brandy and ensure that the wine or
18 pomace brandy returns to the location of the limited winery; repealing certain
19 provisions that are inconsistent with this Act; providing that this Act applies to
20 certain licensees; requiring the Comptroller to make a certain report on or
21 before a certain date on the growth of the Maryland wine industry; and
22 generally relating to alcoholic beverages in the State.

23 BY adding to
24 Article 2B – Alcoholic Beverages
25 Section 2–101(x)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2009 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article 2B – Alcoholic Beverages
5 Section 2–201, 2–205, 11–507, and 11–511
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2009 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article 2B – Alcoholic Beverages**

11 2–101.

12 **(X) (1) IN THIS SUBSECTION, “PERMIT” MEANS A FARMER’S MARKET**
13 **PERMIT.**

14 **(2) THERE IS A FARMER’S MARKET PERMIT.**

15 **(3) THE COMPTROLLER MAY ISSUE THE PERMIT TO A HOLDER OF**
16 **A LICENSE:**

17 **(I) OTHER THAN A CLASS 4 LIMITED WINERY LICENSE,**
18 **THAT ALLOWS THE HOLDER TO SELL ALCOHOLIC BEVERAGES TO THE PUBLIC**
19 **FOR CONSUMPTION OFF THE LICENSED PREMISES; AND**

20 **(II) THAT WAS ISSUED BY THE LOCAL LICENSING BOARD OF**
21 **THE JURISDICTION IN WHICH THE FARMER’S MARKET WILL BE HELD.**

22 **(4) (I) A PERMIT MAY BE USED ONLY:**

23 **1. AT THE FARMER’S MARKET NAMED IN THE**
24 **PERMIT; AND**

25 **2. DURING THE HOURS OF OPERATION OF THE**
26 **FARMER’S MARKET FOR WHICH IT IS OBTAINED.**

27 **(II) THE COMPTROLLER MAY ISSUE NOT MORE THAN ONE**
28 **PERMIT FOR USE AT EACH FARMER’S MARKET.**

29 **(5) A PERMIT AUTHORIZES THE HOLDER TO:**

30 **(I) OCCUPY STALL SPACE AT A FARMER’S MARKET; AND**

1 **(II) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION:**

2 **1. OFFER AND SELL SEALED CONTAINERS OF WINE**
 3 **TO CONSUMERS FOR CONSUMPTION OFF THE LICENSED PREMISES OF THE**
 4 **FARMER’S MARKET; AND**

5 **2. PROVIDE AT NO CHARGE SAMPLES OF WINE NOT**
 6 **TO EXCEED 1 FLUID OUNCE PER BRAND TO CONSUMERS FOR CONSUMPTION ON**
 7 **THE LICENSED PREMISES OF THE FARMER’S MARKET.**

8 **(6) ALL WINE OFFERED FOR SALE OR SAMPLINGS BY THE PERMIT**
 9 **HOLDER SHALL BE THE PRODUCT OF A CLASS 4 LIMITED WINERY.**

10 2–201.

11 (a) The annual fees for manufacturer’s licenses are as follows:

12	Class 1	Distillery	\$ 2,000
13	Class 2	Rectifying	600
14	Class 3	Winery	750
15	Class 4	Limited Winery	200
16	Class 5	Brewery	1,500
17	Class 6	Pub–Brewery	500
18	Class 7	Micro–Brewery	500

19 (b) (1) Except for a Class 6 pub–brewery license, the holder of a distillery,
 20 rectifying, winery, **LIMITED WINERY**, or brewery license may apply for and obtain,
 21 under a different name, one or more additional distillery, rectifying, winery, **LIMITED**
 22 **WINERY**, or brewery licenses for the same or another premises. Those licenses may be
 23 issued to different persons or under trade names used by persons occupying a part of
 24 or all of the same premises.

25 (2) (i) The holder of a rectifying, winery, or brewery license may
 26 apply for and obtain a wholesaler’s license of any class for the same premises or
 27 elsewhere as provided under this article.

28 (ii) The holder of a limited winery license may apply for and
 29 obtain a Class 6 limited wine wholesaler’s license for the same premises or elsewhere
 30 as provided under this article.

31 2–205.

32 (a) In this section, “pomace brandy” means brandy that is distilled from the
 33 pulpy residue of the wine press, including the skins, pips, and stalks of grapes.

1 [(b) A Class 4 manufacturer's license:

2 (1) Is a limited winery license;

3 (2) Authorizes the holder to establish and operate in this State a plant
4 for fermenting and bottling wine and distilling and bottling pomace brandy made from
5 Maryland agriculture products at the location described in the license, unless the
6 Secretary of Agriculture determines that there is insufficient supply available of
7 Maryland agriculture products;

8 (3) Subject to subsection (d) of this section, allows the license holder
9 to:

10 (i) Sell and deliver this wine and pomace brandy to any
11 wholesale licensee or permit holder in this State, or person outside of this State,
12 authorized to acquire it;

13 (ii) Sell this wine and pomace brandy made at the plant to
14 persons participating in a guided tour of the facility. The purchase is limited to one
15 quart of each brand per person per year. Any person who has attained the Maryland
16 legal drinking age may purchase the wine. The licensee may operate only in one
17 location in the State;

18 (iii) Serve at no charge not more than 6 ounces of wine and
19 pomace brandy made at the licensed facility to a person who is participating in a
20 guided tour of the facility, provided the person has attained the Maryland legal
21 drinking age;

22 (iv) Sell by the glass wine and pomace brandy produced by the
23 licensee to persons participating in a guided tour of the facility or attending a
24 scheduled promotional event or other organized activity at the licensed premises; and

25 (v) Store on its licensed premises, in a segregated area approved
26 by the Comptroller, the product of other Class 4 limited wineries to be used at bona
27 fide Maryland Winery Association promotional activities, provided records are
28 maintained and reports filed as may be required by the Comptroller; and

29 (4) Limits the license holder to distilling and bottling not more than
30 200 gallons of pomace brandy each year.

31 (c) In Frederick County the provisions regarding sales on Sundays of this
32 section are governed by § 11-511 of this article.

33 (d) A holder of a Class 4 manufacturer's license in Talbot County:

34 (1) May produce wine and pomace brandy at each warehouse for
35 which the holder has been issued an individual storage permit; but

1 **(7) EXCEPT AS PROVIDED IN PARAGRAPH (8) OF THIS**
2 **SUBSECTION, A LICENSEE MAY CONDUCT THE ACTIVITIES SPECIFIED IN**
3 **PARAGRAPH (5) OF THIS SUBSECTION:**

4 **(I) FOR CONSUMPTION OF WINE AND POMACE BRANDY OFF**
5 **THE LICENSED PREMISES AND FOR SAMPLING, EACH DAY FROM 10 A.M. TO 10**
6 **P.M.; AND**

7 **(II) FOR CONSUMPTION OF WINE AND POMACE BRANDY ON**
8 **THE LICENSED PREMISES AND SALES AND SERVICE OF FOOD ON THE LICENSED**
9 **PREMISES:**

10 **1. FROM 10 A.M. TO 6 P.M. EACH DAY; OR**

11 **2. IF GUESTS ARE ATTENDING A PLANNED**
12 **PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED**
13 **PREMISES, FROM 10 A.M. TO 10 P.M. EACH DAY.**

14 **(8) (I) THIS PARAGRAPH APPLIES ONLY IN GARRETT COUNTY**
15 **ON SUNDAY.**

16 **(II) FROM 1 P.M. TO 10 P.M. A LICENSEE MAY:**

17 **1. SERVE WINE AND POMACE BRANDY FOR**
18 **CONSUMPTION OFF THE LICENSED PREMISES;**

19 **2. PROVIDE SAMPLES OF WINE AND POMACE**
20 **BRANDY;**

21 **3. SUBJECT TO SUBPARAGRAPH (III) OF THIS**
22 **PARAGRAPH, SERVE WINE AND POMACE BRANDY FOR CONSUMPTION ON THE**
23 **LICENSED PREMISES; AND**

24 **4. SUBJECT TO SUBPARAGRAPH (III) OF THIS**
25 **PARAGRAPH, SELL AND SERVE FOOD THAT IS SPECIFIED IN PARAGRAPH (5)(III)**
26 **OF THIS SUBSECTION FOR CONSUMPTION ON THE LICENSED PREMISES.**

27 **(III) FROM 6 P.M. TO 10 P.M., A LICENSEE MAY SERVE WINE**
28 **AND POMACE BRANDY AND SELL AND SERVE FOOD FOR CONSUMPTION ON THE**
29 **LICENSED PREMISES ONLY TO GUESTS WHO ATTEND A PLANNED PROMOTIONAL**
30 **EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES.**

31 **(9) A CLASS 4 LIMITED WINERY LICENSE PERMITS THE HOLDER**
32 **TO OPERATE 7 DAYS A WEEK.**

1 **(10) AT LEAST 14 DAYS BEFORE HOLDING A PLANNED**
2 **PROMOTIONAL EVENT AFTER 6 P.M., A LICENSEE SHALL FILE A NOTICE OF THE**
3 **PROMOTIONAL EVENT WITH THE COMPTROLLER ON THE FORM THAT THE**
4 **COMPTROLLER PROVIDES.**

5 **(11) A LICENSEE MAY NOT SELL OR ALLOW TO BE CONSUMED AT**
6 **THE LOCATION OF THE LIMITED WINERY ANY ALCOHOLIC BEVERAGE OTHER**
7 **THAN THE WINE OR POMACE BRANDY PRODUCED BY THE LICENSEE UNDER THE**
8 **AUTHORITY OF THIS SECTION.**

9 **(C) THE PLACE LISTED ON THE CLASS 4 WINERY LICENSE SHALL BE IN**
10 **COMPLIANCE WITH § 9-103 OF THIS ARTICLE.**

11 **(D) A LICENSEE MAY:**

12 **(1) STORE ON ITS LICENSED PREMISES, IN A SEGREGATED AREA**
13 **APPROVED BY THE COMPTROLLER, THE PRODUCT OF OTHER CLASS 4 LIMITED**
14 **WINERIES TO BE USED AT BONA FIDE MARYLAND WINERIES ASSOCIATION**
15 **PROMOTIONAL ACTIVITIES, PROVIDED RECORDS ARE MAINTAINED AND**
16 **REPORTS FILED AS MAY BE REQUIRED BY THE COMPTROLLER;**

17 **(2) DISTILL AND BOTTLE NOT MORE THAN 1,900 GALLONS OF**
18 **POMACE BRANDY MADE FROM AVAILABLE MARYLAND AGRICULTURAL**
19 **PRODUCTS;**

20 **(3) PURCHASE BULK WINE FERMENTED BY A MANUFACTURER**
21 **LICENSED UNDER THIS ARTICLE AND BLEND THE WINE WITH THE HOLDER'S**
22 **WINE AND POMACE BRANDY, IF THE AGGREGATE PURCHASE DOES NOT EXCEED**
23 **25% OF THE HOLDER'S ANNUAL WINE AND POMACE BRANDY PRODUCTION;**

24 **(4) PURCHASE POMACE BRANDY ONLY FOR BLENDING WITH**
25 **WINE;**

26 **(5) IMPORT, EXPORT, AND TRANSPORT ITS WINE AND POMACE**
27 **BRANDY IN ACCORDANCE WITH THIS SECTION; AND**

28 **(6) PRODUCE WINE AND POMACE BRANDY AT A WAREHOUSE FOR**
29 **WHICH THE HOLDER HAS BEEN ISSUED AN INDIVIDUAL STORAGE PERMIT, IF:**

30 **(I) THE HOLDER DOES NOT SERVE OR SELL WINE OR**
31 **POMACE BRANDY AT A WAREHOUSE TO THE PUBLIC; AND**

1 **(II) THE COMPTROLLER HAS FULL ACCESS AT ALL TIMES**
2 **TO THE WAREHOUSE TO ENFORCE THIS ARTICLE.**

3 **(E) A CLASS 4 LIMITED WINERY MAY BE LOCATED ONLY AT THE PLACE**
4 **STATED ON THE LICENSE.**

5 **(F) IF A LICENSEE MAINTAINS THE RECORDS AND FILES THE REPORTS**
6 **THAT THE COMPTROLLER REQUIRES, THE LICENSEE MAY:**

7 **(1) IN THE STATE, CONDUCT WINEMAKING AND PACKAGING**
8 **ACTIVITIES AT ANOTHER FEDERALLY BONDED WINERY OR LIMITED WINERY; OR**

9 **(2) OUTSIDE THE STATE, CONDUCT WINEMAKING AND**
10 **PACKAGING ACTIVITIES OTHER THAN FERMENTATION, AT ANOTHER FEDERALLY**
11 **BONDED WINERY.**

12 **(G) THROUGHOUT THE WINEMAKING PROCESS, THE LICENSEE SHALL:**

13 **(1) MAINTAIN OWNERSHIP OF THE WINE OR POMACE BRANDY;**
14 **AND**

15 **(2) ENSURE THAT THE WINE OR POMACE BRANDY RETURNS TO**
16 **THE LOCATION OF THE LIMITED WINERY.**

17 11-507.

18 (a) This section applies only in Carroll County.

19 (b) (1) The following restrictions, limitations, and regulations apply.

20 (2) (i) Holders of “on-sale” licenses authorized under this article
21 may sell, offer for sale, or dispense alcoholic beverages between 8 a.m. and 1 a.m. the
22 following day and no other hours. Holders of these licenses may not sell, offer to sell or
23 dispense any alcoholic beverages on Sunday except:

24 1. When the holder of that license is open for business on
25 Saturday at midnight the licensee may remain open until 1 a.m. the Sunday
26 immediately following;

27 2. Holders of Class C and H beer, wine and liquor
28 licenses may reopen and may sell alcoholic beverages on Sundays between 11 a.m. and
29 1 a.m. the following Monday;

30 3. Holders of Class B beer, wine and liquor licenses may
31 reopen and may sell alcoholic beverages on Sundays between 11 a.m. and 1 a.m. the
32 following Monday; and

1 4. Holders of Class B beer and light wine, 7-day licenses
2 may conduct “on-sales” of alcoholic beverages on Sundays between 11 a.m. and 1 a.m.
3 the following Monday.

4 (ii) In all cases in which a closing time is indicated in this
5 subsection a licensee may not permit the drinking of any alcoholic beverage on the
6 premises 15 minutes following the closing time indicated.

7 (3) (i) Holders of “off-sale” licenses under this article may sell,
8 offer for sale, or dispense the beverages defined in this article between 8 a.m. and 11
9 p.m. on Monday through Saturday, and between 11 a.m. and 11 p.m. on Sunday.

10 (ii) Holders of Class B beer and light wine, 7-day licenses may
11 conduct “off-sales” of alcoholic beverages only between 8 a.m. and 11 p.m. on Monday
12 through Saturday, and between 11 a.m. and 11 p.m. on Sunday.

13 [(4) A Class 4 manufacturer’s licensee may sell wine on Sundays, in a
14 sealed package or container which may not be opened or the contents consumed on the
15 licensee’s premises, subject to the other restrictions contained in § 2-205 of this
16 article.]

17 [(5)] (4) A Class A wine licensee may sell wine on Sundays.

18 [(6)] (5) The hours established in this subtitle for the sale of alcoholic
19 beverages in Carroll County are hereby declared to be in accordance with Eastern
20 Standard Time when such time is effective and the hours are declared to be in
21 accordance with daylight time when such time is effective.

22 11-511.

23 (a) This section applies only in Frederick County.

24 (b) This section does not apply to holders of Class E licenses.

25 (c) (1) Notwithstanding any other provision of this subtitle, the privilege
26 conferred by every class of “on-sale” license may be exercised during the hours from 6
27 a.m. to 2 a.m. daily, except Sundays.

28 (2) On Sundays the hours are:

29 (i) On-sale – 11 a.m. to 2 a.m.; and

30 (ii) Off-sale – 1 p.m. to 2 a.m.

31 [(d) A Class 4 manufacturer’s licensee may sell wine on Sundays, in a sealed
32 package or container, which may not be opened or the contents consumed on the

1 licensee's premises, subject to the other restrictions contained in § 2-205 of this
2 article.]

3 **[(e)] (D)** (1) A Class A wine licensee may sell wine on Sundays.

4 (2) (i) The Board of License Commissioners may grant a special
5 Sunday opening permit to a Class A beer, wine and liquor (off-sale) licensee.

6 (ii) The special Sunday opening permit authorizes the holder to
7 sell beer, wine and liquor for off-premises consumption on Sundays from 12 noon to 12
8 midnight.

9 (iii) The annual fee for the special Sunday opening permit is
10 \$650 in addition to the annual fee for the Class A beer, wine and liquor (off-sale)
11 license.

12 (iv) The special Sunday opening permit is not considered a
13 separate class of license and, if it is granted, the privilege shall be incorporated into
14 the existing Class A beer, wine and liquor license.

15 (3) (i) The Board of License Commissioners may grant a special
16 Sunday opening permit to a Class A beer and wine (off-sale) licensee.

17 (ii) The special Sunday opening permit authorizes the holder to
18 sell beer and wine for off-premises consumption on Sundays from 12 noon to 12
19 midnight.

20 (iii) The annual fee for the special Sunday opening permit is
21 \$140 in addition to the annual fee for the Class A beer and wine (off-sale) license.

22 (iv) The special Sunday opening permit is not considered a
23 separate class of license and, if it is granted, the privilege shall be incorporated into
24 the existing Class A beer and wine license.

25 (4) (i) The Board of License Commissioners may grant a special
26 Sunday opening permit to a Class A beer (off-sale) licensee.

27 (ii) The special Sunday opening permit authorizes the holder to
28 sell beer for off-premises consumption on Sundays from 12 noon to 12 midnight.

29 (iii) The annual fee for the special Sunday opening permit is
30 \$100 in addition to the annual fee for the Class A beer (off-sale) license.

31 (iv) The special Sunday opening permit is not considered a
32 separate class of license and, if it is granted, the privilege shall be incorporated into
33 the existing Class A beer license.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
2 persons who hold a Class 4 Limited Winery license on or after the effective date of this
3 Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
5 2012, the Comptroller shall report to the Senate Education, Health, and
6 Environmental Affairs Committee and the House Economic Matters Committee, in
7 accordance with § 2-1246 of the State Government Article, on the impact that the
8 limitation of special event permits specified in § 2-101(x) of Article 2B of the Code, as
9 enacted by Section 1 of this Act, has had on the growth of the Maryland wine industry.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 June 1, 2010.